United Steelworkers of America Local 9292, AFL–CIO, CLC (Allied Signal Technical Services Corporation) ***and*** **Torrence Johnson**. Case 12–CB–4243

September 28, 2001

DECISION AND ORDER

BY MEMBERS LIEBMAN, TRUESDALE, AND WALSH

On February 25, 1999, Administrative Law Judge William N. Cates issued the attached decision. The Respondent filed exceptions and a supporting brief, the General Counsel filed an answering brief, and the Respondent filed a reply brief and a motion to take judicial notice.[1]

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to adopt the judge's rulings, findings, and conclusions only to the extent consistent with this Decision and Order.

The judge found that the Respondent Union violated Section 8(b)(1)(A) of the Act by filing internal union charges against Torrence Johnson and suspending him from membership in the Local Union for 6 months. For the reasons discussed below, consistent with our decisions in *Office Employees Local 251 (Sandia National Laboratories),* 331 NLRB 1417 (2000), and *Service Employees Local 254 (Brandeis University),* 332 NLRB 1118 (2000), we find that the Respondent did not violate Section 8(b)(1)(A) by its actions. Applying the analysis set forth in these cases, we find that any infringement on Johnson's exercise of Section 7 rights is more than counterbalanced by the Respondent Union's legitimate and substantial interest in policing its internal operations.

A. Facts

Allied Signal Technical Services Corporation (the Company) is engaged in the business of providing maintenance and operations support to the United States Marine Corps for combat equipment prepositioned on ships located around the world. United Steelworkers of America Local 9292, AFL–CIO, CLC (the Respondent or Union) represents approximately 400 of the Company's employees in a unit that includes service, warehouse, and maintenance employees; plant clerical employees; truck drivers; and driver/messengers.

Torrence Johnson and Terry Hutsell are longtime employees of Allied Signal. Johnson was elected president of the Union in 1990. He was reelected in 1992, and then ran for a third term in 1994. Hutsell, who had been Johnson's vice president, challenged Johnson for the presidency in the 1994 election. During the 1994 election campaign, Johnson was accused of misappropriating union funds and was subject to various investigations. He testified that he found the campaign "pretty rough." Following a tie vote, Hutsell challenged the election by filing charges with the Department of Labor, and a rerun election was conducted. Hutsell won the second election and served as president until May 1997.

During Hutsell's tenure as union president, Johnson voiced disagreement with Hutsell's handling of union business on numerous occasions, some of which echoed election campaign allegations against Johnson. Hutsell tried to appease Johnson by making him the steward of the paint department in 1995. Johnson's dealings with Hutsell, however, remained hostile. This hostility manifested itself in numerous internal union charges that Johnson filed against Hutsell. Each of Johnson's charges accused Hutsell of intentionally violating the Local Union's bylaws and the International Union's constitution. These charges are summarized below.

- On March 16, 1995, Johnson charged that Hutsell had removed an employee from the workplace on authorized paid Union business for a total of 2½ hours without the required Union membership approval. Johnson's charge specifically accused Hutsell of misappropriating Union funds and deliberately engaging in conduct in violation of the responsibilities of members toward the Union. Only after Hutsell agreed to reimburse the Union out of his own pocket for the 2½ hours of pay did Johnson drop the charges.
- On December 18, 1995, Johnson charged that Hutsell had improperly withdrawn a grievance that Johnson had filed. Johnson's grievance challenged the Company's denial of his request for educational assistance funds to cover paralegal training that he wanted to take (even though he was a body and fender employee). Johnson's charge alleged that Hutsell had deliberately interfered with the performance of the Union's legal or contractual obligations.
- On February 2, 1996,[2] Johnson charged that Hutsell had refused to process Johnson's December 18, 1995 internal union charge. Johnson's charge accused Hutsell of deliberately interfering with

[1] The Respondent Union has moved for the Board to take judicial notice of a Florida State court order granting the defendants' Motion for Summary Judgment against Terrence Johnson in a suit Johnson filed against Terry Hutsell and the United Steelworkers of America, AFL–CIO, CLC. In light of our disposition of this case, we deny the motion as moot.

[2] All subsequent dates refer to 1996 unless specified otherwise.

"any official of the International Union in the discharge of that official's" duties, deliberately engaging in conduct in violation of the responsibility of members toward the Union as an institution, and deliberately interfering with the performance of the Union's legal or contractual obligations. Following a personal meeting between Johnson and Hutsell at which they agreed to put their differences behind them, however, Johnson withdrew his December 18, 1995 and February 2, 1996 charges.

- The abatement in Johnson's hostility toward Hutsell was short-lived. On August 19 Johnson charged that Hutsell had again violated the Union by-laws and the International Union constitution, this time by withdrawing a contractual grievance Johnson had filed on July 22 on behalf of discharged probationary employee George Montgomery, Johnson's uncle. Hutsell withdrew the grievance because he believed that the Union lacked the right to represent discharged probationary employees because the contract provided that the Company could discipline and discharge probationary employees at its "sole discretion." Johnson believed instead that the Company's action against Montgomery violated the contractual nondiscrimination provision, which he understood to apply even to probationary employees. Johnson's charge alleged that Hutsell deliberately interfered with the performance of the Union's legal or contractual obligations.
- On September 18, Johnson charged that Hutsell had improperly withdrawn a contractual grievance Johnson had filed on July 12 concerning the subcontracting of work Johnson thought he should have performed. Johnson withdrew the internal union charges when he later discovered that Hutsell had not withdrawn the grievance.

On September 23, Hutsell filed internal union charges against Johnson accusing Johnson of filing numerous unwarranted and unfounded charges against him in an effort to interfere with the performance of his duties as the union president. Hutsell also charged Johnson with assisting other union members in filing false and unwarranted charges against Hutsell.

Hutsell testified without contradiction that Johnson's internal union charges forced him to spend a considerable amount of time not only preparing his defenses to the charges, but also putting into motion the internal union machinery necessary for processing the charges. Hutsell further testified without contradiction that these charges were, at critical times, distracting to the performance of his duties as union president. Even when certain of the charges were resolved prior to a hearing before a union trial committee, Hutsell was required to spend considerable time and effort given the expedited nature of the charge resolution process: within 4 weeks following the filing of an internal charge a notice of the charge must be posted, a membership meeting was held at which the charge is discussed and either a trial committee selected or a process to obtain such a committee chosen. Thus, even though Johnson eventually withdrew the first three internal union charges against Hutsell, the withdrawals did not occur until after Hutsell had expended considerable time and effort on the charges.

On September 25 Hutsell requested and received approval from the Local Union's executive board to remove Johnson from the paint department steward position to which Hutsell had appointed Johnson. On the same day, Hutsell notified Johnson in writing of his removal as steward. Johnson responded by filing more internal union charges against Hutsell. Johnson's charges alleged that Hutsell's action of removing him as steward deliberately interfered with "any official of the International Union in the discharge of that official's" duties, deliberately violated the responsibility of members toward the Union as an institution, and deliberately interfered with the performance of the Union's legal or contractual obligations.

Hutsell's charges against Johnson and Johnson's two remaining charges against Hutsell (involving Hutsell's withdrawal of the grievance regarding Johnson's uncle and Hutsell's removal of Johnson as a steward) were scheduled for trial at the same time, and were thoroughly considered by the Union at all levels of the organization. First, committees of the Local Union's members tried the charges in November. On December 13 the Local Union's membership voted to accept the trial committees' recommendations to (1) dismiss Johnson's charges against Hutsell; (2) find Johnson guilty of all charges filed by Hutsell; and (3) suspend Johnson from the Local Union's membership for 24 months.

Johnson appealed the decision to the International Union. An international commission recommended sustaining the Local Union's actions. Subsequently, the International Union executive board adopted the International Commission's recommendations, but reduced Johnson's suspension from membership to 6 months.

B. The Judge's Decision

The complaint alleges that the Union violated Section 8(b)(1)(A) of the Act by filing internal union charges

against Johnson and suspending him from membership.[3] Applying a dual motive analysis, the judge found that counsel for the General Counsel had established that (1) Johnson's charges against Hutsell were "inextricably entangled" with Johnson's attempts to enforce the collective-bargaining agreement, certain company policies and the Union's bylaws and constitution and thus were protected activities; and (2) the Union's charges against and suspension of Johnson were necessarily directed against these protected activities. The judge further concluded that, because the Union failed to demonstrate that it would have filed the charges against Johnson and suspended him absent Johnson's protected activities, a violation must be found.

C. Discussion

After the judge's decision in this case issued, the Board issued its decision in *Office Employees Local 251 (Sandia National Laboratories),* supra. In that case, the Board reviewed the reach of Section 8(b)(1)(A) and its proviso. As a result of that review, the Board concluded that Section 8(b)(1)(A) does not proscribe wholly intraunion conduct and discipline. Instead, the Board found that Section 8(b)(1)(A)'s proper scope in union discipline cases is to proscribe union conduct against union members that impacts on the employment relationship; impairs access to the Board's processes; pertains to unacceptable methods of union coercion, such as physical violence in organizational or strike contexts; or otherwise impairs policies imbedded in the Act. Id. at 1418–1419. In so doing, the Board overruled precedent on which the judge relied in finding the discipline of Johnson unlawful.

In this case, there is no indication that the Union's discipline of Johnson impaired access to the Board's processes, involved violence or other unacceptable methods of coercion, or impaired policies imbedded in the Act. The only category in which the discipline of Johnson could arguably fall is the first category identified above—namely, it potentially impacted on his relationship with his Employer. Johnson's internal union charges, with two exceptions, related directly to how grievances were handled under the terms of the collective-bargaining agreement.[4] Arguably, by suspending Johnson's membership in the Union for challenging the Union's grievance handling strategies, the Union adversely affected his right to file and pursue grievances under the collective-bargaining agreement and thereby affected his conditions of employment. Conversely, it could colorably be argued that Johnson's suspension affects him only as a union member, does not affect his conditions of employment and clearly did not affect his job status. Although the discipline's nexus with the employment relationship appears tenuous, we need not resolve this issue. For, even assuming the Union's action toward Johnson had an impact on his relationship with his employer, we would still find no violation of Section 8(b)(1)(A).

Assuming, as we do, that there is a connection to the employment relationship under *Sandia*, supra, then the Union's discipline of Johnson comes within the scope of Section 8(b)(1)(A). We must then determine whether the discipline violated Section 8(b)(1)(A), by balancing Johnson's Section 7 rights against the legitimacy of the union interests at stake, in accord with longstanding precedent.[5]

We begin by analyzing the Section 7 rights that are affected by the Union's discipline of Johnson. In filing charges over Hutsell's handling of the grievances, Johnson was exercising his Section 7 right "to question the adequacy of his Union's representation of the bargaining unit and to seek to redirect his union's policies and strategies for dealing with his Employer."[6] By disciplining Johnson for filing the charges, therefore, the Union arguably restrained Johnson in the exercise of his Section 7 rights within the meaning of Section 8(b)(1)(A). Although deprived temporarily of his union membership, Johnson has other means available to exercise his Section 7 right to pursue changes in working conditions and to influence his union representative's bargaining policies. He can, of course, continue to file grievances. He can

[3] The complaint does not allege that the Union's removal of Johnson from his shop steward position violated the Act, and the judge did not find a violation based on that conduct. We also do not pass on this issue.

[4] As discussed below, the Union disciplined Johnson for attempting to dictate the Union's contractual grievance policy by filing internal charges challenging the Union's leadership decisions regarding the proper handling of grievances. The Union did not discipline Johnson for filing grievances or for voicing his opinion on their merits. Two of Johnson's charges were unrelated to the Union's grievance policy. Johnson's March 16, 1995 charge challenged Hutsell's placement of an employee on authorized union business without the appropriate union approval, and his September 27, 1995 charge challenged Hutsell's removal of Johnson as steward.

[5] *Sandia* and *Brandeis* expressly reaffirmed several Board decisions in which the 8(b)(1)(A) issue was decided by balancing the employees' Sec. 7 right to engage in or refrain from concerted activity against the legitimacy of the union interest at stake. *Brandeis*, supra at 1122, and *Sandia*, supra at 1420, citing *Mine Workers Local 12419 (National Grinding Wheel Co.)*, 176 NLRB 628 (1969); *Molders Local 125 (Blackhawk Tanning Co.)*, 178 NLRB 208 (1969); and *Plumbers Local 444 (T. S. Hanson Plumbing)*, 277 NLRB 1231 (1985).

[6] *Brandeis*, supra at 1123. See also *Sandia*, supra at 1419, 1424, discussing the longstanding principle that Sec. 7 encompasses the right of employees to persuade their union representative to change its bargaining policies and to pursue changes in their working conditions.

initiate a decertification effort or rival union campaign. And, significantly, he can pursue legal claims that the Union mishandled his grievances, in breach of its duty of fair representation.

We next examine the Union's interests at stake in this case. We find that, to the extent that Johnson's suspension from union membership may be deemed a restraint on Section 7 rights, that restraint is more than counterbalanced by the Union's legitimate interest in maintaining control over the grievance process and in policing its internal affairs so as to avoid erosion of its status. By filing internal union charges protesting Hutsell's handling of grievances, Johnson was attempting to dictate the Union's contractual grievance policy. As the Board and courts have long recognized, a union has a legitimate interest in maintaining control over the grievance process. Unions for the most part lack the resources necessary to fully investigate and prosecute to arbitration every grievance filed. Accordingly, they must be free to decide, in good faith, which grievances to pursue and which to abandon or to trade off in favor of some other advantage.[7]

The repeated filing of internal union charges against union officers because of a disagreement over their handling of grievances jeopardizes the Union's control over the grievance process. It also potentially weakens the grievance processes and, ultimately, the collective-bargaining process as well. In the present case, for example, Johnson's attack on Hutsell through the repeated filing of internal union charges caused Hutsell to spend considerable time and effort defending the charges and it interfered with the performance of his other duties as union president.[8] Further, the charges impacted financially on the Union, as the Union was required to reimburse union members and officers for the time they spent processing the charges. If the Union were to accede to Johnson's demands, on the other hand, it would encourage other members to capitalize on this tactic and file their own internal charges for the purpose of dictating the Union's contractual grievance policy. The union leadership would then be required to expend more time and money defending against such charges, thus taxing its resources and distracting it from the performance of its other duties as the employees' exclusive collective-bargaining representative.

In concluding that the balance tips in favor of the Union's interests at stake in this case, we are respecting the essential balance of interests that Congress has embodied in the 8(b)(1)(A) prohibitions and the 8(b)(1)(A) proviso. In enacting Section 8(b)(1)(A), Congress specified that that section's protection against restraint on Section 7 rights "shall not impair the right of a labor organization to proscribe its own rules with respect to the acquisition or retention of membership therein." Congress thus recognized that unions had legitimate interests in deciding how to regulate their internal affairs so as to forestall erosion of their status. Setting the terms on which individuals could become and remain members was a significant aspect of this. *Food & Commercial Workers Local 81* (*MacDonald Meat Co.),* 284 NLRB 1084, 1085 (1987), citing *NLRB v. Allis-Chalmers Mfg. Co.*, 388 U.S. 175 (1967). As the Board observed in *MacDonald Meat Co*., supra, it has been generally assumed that "rules with respect to the . . . retention of membership" are those that provide for the suspension and expulsion of employees from the union.

Thus, for the reasons set forth above, we find that the Union's legitimate and substantial interest in maintaining control over the grievance process and in policing its internal affairs so as to avoid erosion of its status outweighs Johnson's arguably impacted Section 7 rights. We therefore conclude that the Union's actions of filing internal union charges against Johnson and suspending Johnson from membership in the Union for 6 months do not constitute unlawful restraint on those rights in violation of Section 8(b)(1)(A).[9]

In finding that the Union did not violate Section 8(b)(1)(A) by disciplining Johnson, we find distinguishable our decision in *Operating Engineers Local 400 (Hilde Construction Co.)*, 225 NLRB 596 (1976), enfd. mem. 561 F.2d 1021 (D.C. Cir 1977). In that case, the Board found that the union violated Section 8(b)(1)(A) by imposing internal union fines on members who engaged in dissident activity in an attempt to redirect their union's bargaining strategy. As we noted in *Brandeis*, supra at 1124, an important factor in finding a violation in *Hilde* was that the discipline was not "narrowly tailored to serve [the] legitimate union interest." In the instant case, we find that the remedy the Union chose was narrowly tailored to address the problems created by

[7] *Humphrey v. Moore*, 375 U.S. 335, 349 (1964). There is no evidence in the record, nor is there any allegation, that the Union's handling of the grievances at issue in this case was arbitrary, discriminatory or motivated by bad faith.

[8] Hutsell's testimony regarding the impact of Johnson's filing of internal union charges on Hutsell's ability to perform his duties as union president was uncontradicted.

[9] Although we find that it was not an unfair labor practice to take the aforementioned internal union action against Johnson, we note that Johnson has other remedies at his disposal for resolving purely intraunion quarrels concerning the propriety of intraunion decision making. See *Sandia*, supra at 1425. For example, Johnson could pursue a claim under the Labor-Management Reporting and Disclosure Act that he has been disciplined for attempting to be heard on his view of how the union should operate. 29 U.S.C. § 411 et seq.

Johnson's repetitive filings. Simply removing Johnson from his steward position would not solve the Union's problem because as a union member Johnson would still be in a position to file internal union charges. Furthermore, suspending Johnson for only 6 months serves both to limit the adverse impact on Johnson while providing the Union with some short-term relief from the problem Johnson's repetitive filing of internal union charges posed.

ORDER

The complaint is dismissed.

Dallas Manuel II, Esq., for the General Counsel.
Glen M. Connor, Esq., for the Union.

DECISION

STATEMENT OF THE CASE

WILLIAM N. CATES, Administrative Law Judge. This case was tried in Jacksonville, Florida, on December 7 and 8, 1998, pursuant to a complaint issued by the Regional Director for Region 12 of the National Labor Relations Board (the Board) on January 27, 1998, and is based on a charge filed by Torrence Johnson, an individual (Johnson), on December 9, 1996, and amended on December 24, 1997. The complaint alleges United Steelworkers of America, Local 9292, AFL–CIO, CLC (Local Union) engaged in certain violations of Section 8(b)(1)(A) of the National Labor Relations Act (the Act).

Issues

Whether the Union on or about September 23, 1996, through its agent Terry Hutsell (Hutsell), filed internal union charges against Johnson, and whether on or about January 1, 1997, the Local Union suspended Johnson from membership for 6 months because Johnson filed internal union charges against Hutsell over his decision not to process various grievances which had been filed under the provisions of the collective-bargaining agreement hereinafter referred to.

All parties were given full opportunity to participate, to introduce relevant evidence, to examine and to cross-examine witnesses, to argue orally, and to file briefs.

On the entire record of the case, and from my observation of the witnesses and their demeanor, I conclude and find the Union violated the Act substantially as alleged in the complaint.

FINDINGS OF FACT

I. THE BOARD'S JURISDICTION

Allied Signal Technical Services Corporation (the Company) a wholly owned subsidiary of Allied Signal, Inc., with a place of business located at Jacksonville, Florida, at times material herein, has been and continues to be engaged in the business of providing maintenance and operations support to the United States Marine Corps, a branch of the armed forces of the United States, for combat equipment prepositioned on ships located around the world. During the past 12 months, the Company, in conducting its business operations, provided services valued in excess of $50,000 to the United States Marine Corps. The Company, based on its operations described above, has a substantial impact on the national defense of the United States.

The evidence establishes, the parties admit, and I find that the Company is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

II. THE LABOR ORGANIZATION INVOLVED

The Local Union admits, the evidence establishes, and I find that it is a labor organization within the meaning of Section 2(5) of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICES

Johnson and Hutsell are long-term employees of the Company and both were active in bringing the Local Union in at the Company. The Local Union was certified in March 1990 as the collective-bargaining representative for the following unit of employees:

> All service, warehouse and maintenance employees, plant clerical employees, truck drivers, and driver/messengers employed by the Company on the MPF Program at the Company's facilities located at Blount Island, at A.D.D. on Heckscher Drive and Imeson Park; excluding administrative coordinators, guards, administrative and confidential employees, professional employees, and supervisors as defined in the National Labor Relations Act, as amended.

Johnson and Hutsell have both been members of the Union since 1990. Johnson was elected as the first president of the Local Union in 1990 and reelected for a second term. Johnson ran for reelection in 1994, but was defeated by his former vice president, Hutsell. Hutsell served until Ronald Register was elected president of the Local Union in 1997. The unit is made up of approximately 400 members. The most recent collective-bargaining agreement between the Company and Local Union is effective from May 20, 1996, until May 20, 1999.

Essentially this litigation grew out of two former presidents' apparent distrust or dislike of each other, or of their animosity toward each other, or of their desire to take the Union in different directions with different goals.

The Local Union is charged with violating Section 8(b)(1)(A) of the Act, which reads as follows:

> (b) It shall be an unfair labor practice for a labor organization or its agents—
>
> (1) To restrain or coerce (A) employees in the exercise of the rights guaranteed in Section 7 [Section 157 of this Title]: *provided*, That this paragraph shall not impair the right of a labor organization to proscribe its own rules with respect to the acquisition or retention of membership therein.

Section 7 (Sec. 157) provides:

> Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all such activities except to the extent that such right may be affected

by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8(a)(3) [Section 158(a)(3) of this Title].

IV. FACTS

The facts are set forth in what at first might appear greater detail than is necessary. However, this more inclusive factual narration is necessary to fully illuminate the time consuming (and perhaps costly) disputes between the Local Union's two former presidents.

Johnson sought reelection as the Local Union's president in 1994, and was opposed by his then vice president, Hutsell. The election resulted in a tie vote following what Johnson described as a "pretty rough" campaign in which "some accusations"[1] were made. According to Johnson, Hutsell filed charges with the Department of Labor, Office of Labor Management Standards, and as a result a rerun election was held. Hutsell was declared the winner in the rerun election. Hutsell served as president of the Local Union from 1994 until May 1997.

Hutsell testified that after he assumed the presidency he had to quickly prepare for contract negotiations, which were very time consuming. Hutsell testified he also had the additional burden of knowing and planning for another local union (at Florida Wire and Cable) being considered for and eventually "amalgamated" into the Local Union herein.

Johnson said after Hutsell assumed the presidency of the Local Union he had various "disputes" with Hutsell. Johnson explained the disputes involved "grievance handling," "grievance procedures," "the local union by-laws," and various other matters.[2] Johnson said he tried to resolve some of the disputes by talking with Hutsell[3] but that the Union had procedures where members could challenge decisions of its local officials in a more formal method which he utilized. According to Johnson, formal challenges may be undertaken by filing local, "internal charges"[4] against members or officials or by a complaining member writing the International Union, with the International Union reviewing and/or investigating the challenged actions of local union officials. Johnson further explained there is a process for filing internal union charges against members or officials pursuant to the Local Union's bylaws as well as the international constitution, which outlines in broad terms procedures to be followed. Johnson said if a local union member or officer believes one of the local members or officers have violated the local's bylaws[5] (or the International Union's constitution) the member may file an internal union charge with the recording secretary of the local.

A local union charging party member must cite specific violations in any charge, which is then read at the next regularly scheduled local union meeting. Thereafter a trial committee is appointed and/or approved by a local union membership and a trial date on the charges is established. The trial committee hears from witnesses and/or receives and considers documentary evidence and thereafter makes a decision on the charges. The trial committee's decision is read at the next regularly scheduled local union meeting and voted upon.

Any aggrieved party may appeal any decision of the Local Union to the International Union. The International Union then establishes an International commission. The International commission visits the local union and hears and/or reviews the previous evidence as well as any newly developed evidence. The International commission reports its findings, along with a recommendation, to the International Union. If an aggrieved party seeks further review the matter is presented to the International Union, as a whole, at the International Union's membership meeting. The International Union membership's vote is final.

Hutsell testified he had been elected to move the Local Union forward but Johnson began filing internal union charges against him. Hutsell explained that when internal union charges are filed the membership has to be notified the date the charges will be discussed, an investigation has to be launched, a trial committee selected, and a trail date established. Hutsell said these actions take considerable time and were distracting to his performing other functions for the Local Union. Hutsell testified that although the first three internal union charges filed against him by Johnson were withdrawn by Johnson, such withdrawals did not take place before considerable time and energy had been expended on the charges.[6]

Johnson filed internal union charges against Hutsell on March 16, 1995, in which he alleged Hutsell had, on January 17, 1995, removed an employee (Joseph Clark) from the work place on authorized paid union business for 2-1/2 hours without local union membership approval.[7] Johnson asserts Hutsell's actions conflicted with the Local Union's bylaws. According to Johnson, Hutsell agreed to repay the Local Union for the 2-1/2 hours. Johnson acknowledged he dropped the charges against Hutsell before the charges were assigned a case or incident number.

Johnson filed internal union charges against Hutsell on December 18, 1995, for withdrawing a grievance he had filed. Johnson explained he was notified on October 18, 1995, the

[1] Johnson testified he "was accused of misappropriating union funds" and that he was subject to "a few investigations."

[2] Hutsell testified he and Johnson had differences of opinion about how the Local Union should be run.

[3] Hutsell testified he was concerned that Johnson was still "stinging a little bit from the loss in the past election"; therefore, in "an attempt to try to pull Mr. Johnson back . . . into involvement in the Union and to try to take advantage of the knowledge that he [Johnson] did have," he asked the Local Union executive board about appointing Johnson to fill a shop steward's vacancy in the paint department. Hutsell appointed Johnson to the position after speaking with employees in the paint department.

[4] The constitution of the International Union at art. 12, p. 57, outlines offenses any member (including officials) may be penalized for.

[5] Art. X of the Local Union's bylaws at "Trials of Members and Local Union Officers" outlines in detail the procedures to be followed.

[6] Hutsell testified, "there was a lot of pressure brought to bear on Mr. Johnson and myself . . . from the members . . . saying . . . they felt . . . this [charge filing] was silly." Hutsell explained the members' pressure "was more along the lines they felt we were getting ready to waste a lot of local time and local money on something that they felt was silly."

[7] Johnson stated the relief he sought was to have the Local Union repaid and to prevent this type of situation from happening in the future.

grievance in question (8–95)[8] had been "withdrawn before it even got to a committee to review." Johnson was notified of the withdrawal in writing by Homer Wilson, a staff representative of the International Union.[9] Johnson asserted the withdrawal decision and notification was based on facts and/or information provided to Wilson by Hutsell, and possible others.

Johnson filed internal union charges against Hutsell on February 2, 1996, stating "Mr. Hutsell refused to proceed with an internal charge filed by me regarding his withdrawal of my grievance (8–95)." Johnson explained he filed this internal union charge because Hutsell would not proceed with the internal union charge he had filed on December 18, 1995. Johnson alleged Hutsell's refusal to proceed on the December 18, 1995, internal union charge violated local bylaws, namely that a trial committee should have been selected and the matter presented to the trial committee for a resolution.

Johnson voluntarily withdrew the two internal union charges he had filed on December 18, 1995, and February 2, 1996, after he met with Hutsell "at a pray meeting." Johnson explained, "we just did it like a gentlemen thing" "we just agreed to . . . go forward" and "put all that behind us."

On July 22, 1996, Johnson filed a grievance on behalf of probationary employee, George Montgomery,[10] regarding Montgomery's discharge. Johnson knew Montgomery had not completed his probationary period at the time the Company discharged Montgomery and he was aware the collective-bargaining agreement reflected the Company could discipline, up to and including discharge, any employee during the employees' probationary period "at the sole discretion of the Company." Johnson explained that notwithstanding the Company's prerogatives he filed the grievance for two reasons, namely, (1) there was a "No Discrimination provision"[11] in the collective-bargaining agreement, and (2) that during his tenure as the Local Union's president he had filed a grievance which was processed by the Company for a probationary employee regarding discrimination.

In a letter dated August 13, 1996, Hutsell notified the human resources manager of the Company the Union was withdrawing the grievance related to Montgomery's termination.[12] Johnson learned of the withdrawal and filed internal union charges against Hutsell on August 19, 1996, in which he asserted the grievance involving Montgomery had been withdrawn before it had been investigated; without discussion by the grievance committee; and before the Company even responded to it. Johnson testified that by filing this internal union charge against Hutsell he was attempting to have Montgomery's grievance reinstated.

Johnson testified that before he had an opportunity to present evidence and/or arguments regarding his August 19, 1996, internal union charges Hutsell had written to and received a reply from the International Union regarding the charges. International Union Secretary-Treasure Leo W. Gerard's September 23, 1996 response, reads as follows:

> Nona M. Rice, Recording Secretary
> USWA Local Union 9292
> 435 Clark Road, Ste. 103
> Jacksonville, FL 32218
>
> Dear Sister Rice:
>
> I am in receipt of charges by Torrence Johnson against the Local Union President, Terry Hutsell, which were filed on August 19, 1996.
>
> Please be advised that, based on the contractual language, it appears that these charges are frivolous in nature since probationary employees do not have the right to process a grievance. If this be the case, the Local Union should not entertain the charge as submitted.
>
> In Solidarity,
> /s/ Leo W. Gerard
>
> Leo W. Gerard
> International Secretary-Treasure
>
> c. Homer Wilson, Director
> Terry Hutsell, President

International Union Secretary-Treasure Gerard's letter was read at the Local Union memberships' regularly scheduled October 19, 1996 membership meeting. According to Johnson, Hutsell stated the Local Union would not proceed with Johnson's August 19, 1996 charge. Johnson testified "dissention arose" and International Union District Director Homer Wilson agreed the charge could not be dropped but must be processed by the Local Union.

According to Johnson, a trial committee was to have been chosen at the October 1996 meeting for his August 19, 1996, internal union charges, but the trial committee was not chosen until later and was chosen by the executive board of the Local Union at random from its checkoff list. Johnson testified the bylaws of the Local Union called for the members to appoint (or approve) the selection of a trial committee rather than the executive board.

[8] The grievance involved Johnson's request for educational assistance from the Company, which the Company denied. Johnson is as a body and fender repair employee in the paint department. The educational assistance he sought from the Company was for paralegal training. Johnson acknowledged the Company does not utilize paralegals at its Jacksonville, Florida location, but he contended the collective-bargaining agreement did not specify job training had to be bargaining unit work related.

[9] Johnson testified on cross-examination that after he filed the charges on December 18, 1995, Hutsell advised him in writing the charge was untimely and if Johnson could not show it was filed within the required 60 days the Local Union would not proceed with the charge.

[10] Johnson acknowledged on cross-examination that Montgomery is his uncle.

[11] Johnson provided a copy of the Company's reaffirmation of its EEOC policies dated August 9, 1996, which he contended reflected the Company's longstanding policy on nondiscrimination. Johnson understood the policies applied even to probationary employees.

[12] Hustell explained he withdrew the grievance because, "there was little or no doubt that Mr. Montgomery was a probationary employee" and under the parties collective-bargaining agreement "we did not have the right to represent disciplined or [discharged] . . . employees."

Johnson filed internal union charges against Hutsell on September 18, 1996, alleging Hutsell had withdrawn a grievance[13] Johnson had filed regarding the subcontracting of work Johnson contended he could and should have performed. Johnson later withdrew this internal union charge when he learned the underlying grievance had not actually been withdrawn.

On September 23, 1996, Hutsell filed internal union charges against Johnson. The charges read in pertinent part as follows:

> In compliance with references (a) and (b) I am filing charges against fellow union member Brother Torrence Johnson. These charges are as follows:
>
> (1) *Reference (a) Article XII Section (1) part (a), Reference (b) Article IX Section (1) part (a)*
>
> Brother Johnson, being a past president of this local, is fully aware of all the previsions outlined in our Constitution, Bylaws and Collective Bargaining Agreement and has knowingly violated such.
>
> (2) *Reference (a) Article XII Section (1) part (l), Reference (b) Article IX Section (1) part (l)*
>
> Brother Johnson has continuously filed or assisted others in the filing of unwarranted and unfounded charges against the local union president in an effort to deliberately interfere with him in the discharge of his official duties.
>
> (3) *Reference (a) Article XII Section (1) part (m) and (n), Reference (b) Article IX Section (1) part (m) and (n)*
>
> Brother Johnson has on a continuous basis engaged in (1) conduct and actions against the organization as an institution (2) deliberately interfering with the performance of the organization's legal or contractual obligations. This is based on the fact He has repeated filed and/or encourage others to file unwarranted and unfounded charges in an effort to make it impossible for the local union president to fulfill the legal and contractual obligations of the local.
>
> (3) *Reference (a) New Members Oath*
>
> Brother Johnson has knowingly and willingly wronged a member by filing false and unfounded charges against the local union president.
>
> Sincerely,
>
> /s/Terry Hutsell
> Terry Hutsell
> President, USWA Local 9292

Hutsell testified he conducted a local union executive board meeting by telephone on September 25, 1996, in which he asked the Local Union's executive board members to support his removing Johnson as job steward in the paint department. Hutsell told the Local Union's executive board members, "Brother Torrence Johnson's actions over the past months have been destructive and counter productive to the Local." The Local Union's executive board voted eight in favor of supporting President Hutsell's requested action, one executive board member voted against and one abstained.

[13] The grievance appears to have been filed on July 12, 1996. In his grievance Johnson was complaining the Company had sent a GMC truck for body and fender repair to an employer outside the repair unit herein.

Hutsell sent the following letter to Johnson on September 25, 1996:[14]

> September 25, 1996
>
> Torrence Johnson
> 5756 Tallpine Lane #5
> Jacksonville, FL 32211
>
> Dear Brother Johnson,
>
> After careful review of your actions over the last several months it is with regret a must inform you, that because of those actions, you have left me no alternative but to remove you from the position of shop steward in this local.
>
> Before taking this action it was discussed in great lengths with the local's executive board members and our international representatives and it was agreed that this action is in the best interest of the local.
>
> Brother Johnson, I find it very unfortunate this action has to be taken, a former president, such as yourself, could be one the most valuable assets this Local has to offer, unfortunately you decided to use those skills to try to divide us and to continue to promote distrust among the membership.
>
> If you have any questions concerning this issue please feel free to contact me.
>
> Sincerely,
>
> /s/ Terry Hutsell
> Terry Hutsell
> President, USWA Local 9292

Johnson testified neither Hutsell nor any other union official explained to him why he was removed as a job steward.[15]

Hutsell testified he removed Johnson from shop steward because of his "continuous filing of the frivolous charges" and added, "the relationship between me and Mr. Johnson had deteriorated to the point that it was no longer workable."

Johnson filed internal union charges against Hutsell on September 27, 1996, for removing him as steward. Johnson asserted the removal letter did not "address any violations or other actions which constitutes this decision." Johnson further asserted "this action was not addressed with the executive board or the staff representatives as his letter claims."

Hutsell in his September 23, 1996 internal union charges against Johnson asserted Johnson, "continuously filed or assisted others in the filing of unwarranted and unfound charges against the Local Union president in an effort to deliberately interfere with him in the discharge of his official duties." Hutsell testified he viewed Johnson's charges "as harassment and

[14] Johnson served as shop steward in the paint department from December 1995 until September 1996. Johnson contends stewards' positions are elected. However, it appears Hutsell simply conducted an informal poll of the paint department before appointing Johnson as steward therein.

[15] Johnson testified the procedure for removing a job steward is to have internal union charges filed against the steward followed by the selection of a trial committee to decide whether the steward should be removed.

an attempt by Mr. Johnson to burden me with other things . . . because some of the charges came at pretty critical times that would interfere with what I . . . might have had going on at that particular time."

Johnson was notified in writing on November 21, 1996, of trial dates for certain of his internal union charges. Trial dates were selected for two of the internal union charges Johnson filed against Hutsell; namely, the charge regarding Johnson's removal as a shop steward and the internal union charge related to the withdrawal of the Montgomery grievance. Also scheduled for trial during that same time was the internal union charges filed by Hutsell against Johnson.[16]

Johnson testified he attempted, albeit unsuccessfully, to get the trial committee's hearing dates rescheduled.[17]

The results of the trial committees on the three internal union charges were reported to the Local Union's membership at its December 1996 regularly scheduled union meeting.

The Local Union notified Johnson that the membership, by majority vote, supported the trial committees' recommendation that the internal union charges by Johnson against Hutsell be dismissed.

The membership supported the trial committees' "guilty on all counts" decision regarding Hutsell's charges against Johnson and his suspension from membership in the Local Union for 24 months.

The trial committees' report to the Local Union's members dated December 9, 1996, pointed out that Johnson did not appear at trial even after being notified his request to reschedule the hearings had been rejected.

Following the Local Union's membership's December 13, 1996 approval of its trial committees' decision, Johnson appealed the decision (regarding his 24-month suspension from the Union and his being removed as shop steward) to the International Union. Johnson sought to have the International Union stay the Local Union's actions until the International Union acted thereon.

The International Union notified Johnson on January 17, 1997, his appeal from the actions of the local union membership was accepted, but his request for a stay was denied. The International Union notified Johnson on February 5, 1997, that his appeal would be, and was, heard by an international commission in Jacksonville, Florida, on March 1, 1997.

Johnson attended the March 1, 1997 international internal commission hearing and submitted two written briefs. Johnson urged the international commission to reverse the findings of the Local Union on two major points, namely, that the charges against him were not specific and were untimely.

Following the March 1, 1997 international commission hearings, the international commission made its report to the International Union's executive board in May 1997. The international commission concluded in pertinent part:

III. FINDINGS

All parties were given full opportunity to call witnesses, introduce evidence, and present oral argument. On the basis of all the evidence, including our own observations of the witnesses, and after considering the arguments advanced by the parties; we have arrived at the following findings and recommendations.

Charge #0496

The testimony disclosed that Torrence Johnson had repeatedly filed false and unwarranted charges against Terry Hutsell, president of the Local, that Torrence Johnson recommended to a group that tried to organize with the Steelworkers that they go to the Teamsters, that he also assisted other members of the Local in filing false and unwarranted charges against Hutsell, and constantly because of his actions interfered with the president and Local in administering the collective-bargaining agreement.

Charge #0596

The evidence disclosed that Torrence Johnson choose not to attend the hearings of the trial committee, because he felt that the trial committee and membership didn't have enough sense to make such a decision on the various charges and would wait for an international commission to hear his cases.

The evidence also showed that ever since Terry Hutsell beat Torrence Johnson for the office of president of the Local, Torrence Johnson has filed or caused to be filed through others, many unwarranted and unjust charges against Terry Hutsell, president of the Local.

The evidence showed that Terry Hutsell did not violate the constitution or bylaws when he removed Torrence Johnson as shop steward in the paint department, as Torrence Johnson was appointed by the president of the Local, approved by the local executive board and removed by the president of the Local because of Torrence Johnson's constant harassment, etc., with approval of the Local executive board. It is interesting that according to unrefuted (sic.) testimony Torrence Johnson got up in the local union meeting and withdrew charge #5 but latter appealed it to the International.

Accordingly, we find Torrence Johnson (Charge #0496) guilty as charged on all four (4) counts, and Terry Hutsell (Charge #0596) not guilty. We also find that the Local Union's actions were reasonable in Charge #0496 by suspending Torrence Johnson's good standing for twenty-four (24) months and were proper in dismissing Charge #0596 against Terry Hutsell.

IV. Recommendations

We find that the Local Union's actions in Charges #0496 & #0596 to have been proper with no procedural errors, and the Appeals of Torrence Johnson be denied and the Local Union's actions be upheld.

Respectfully submitted,

/s/ John Herron
John Herron, Chairman

[16] The actual hearing dates for the three internal union charges were November 22, 25, and 26, 1996.

[17] Johnson acknowledged he had been excused from work on the selected dates but elected not to attend the trials.

/s/ Billy McColeman
Billy McColeman, Secretary

On August 15, 1997, the International Union executive board notified Johnson, in writing, it had adopted the International commission's report and recommendations, but had modified the discipline imposed to the extent it reduced Johnson's suspension from local union membership from 24 to 6 months.

Johnson appealed the International Union executive board's decision to the entire international union membership at its annual convention. The decision of the International Union executive board was upheld.

V. GUIDING PRINCIPLES

It is helpful to look at certain guiding Board principles. The Board in *Steelworkers Local 1397 (U.S. Steel Corp., Homestead Works)*, 240 NLRB 848 (1979), stated "that an employee's right to engage in intraunion activities in opposition to the incumbent leadership of his union is concerted activity protected by Section 7 is, of course, elementary." See also *Laborers Local 836 (Corbet Construction)*, 307 NLRB 801, 803 (1992). [Judge Thomas A. Ricci noted "that members have a statutory right to object to the way officers, or even a majority of the union members, chose to operate the union is so clear as to require no citation of authority."] Stated differently, the Board in *Longshoremen Local 20 (Ryan-Walsh Stevedoring Co.)*, 323 NLRB 1115, 1126 (1997), noted, "The governing law is clear—a union violates Section 8(b)(1)(A) of the Act if it processes internal union charges against one of its members because that member engages in protected [dissent] union activity." The Board has also held that the threatened, attempted, or actual invocation of internal disciplinary charges by a union representative has a sufficient tendency to impede employees in the exercise of rights protected by the Act to fall within the pressures condemned by Section 8(b)(1)(A) of the Act. *Machinists Local 707 (United Technologies)*, 276 NLRB 985 (1985). It is well established that the immunity accorded a union by the proviso with respect to the internal enforcement of its rules and policies is not an unqualified one. See, e.g., *Auto Workers Local 1989 (Caterpillar Tractor Co.)*, 249 NLRB 922 (1980). A union may not under the guise of enforcing internal discipline deprive its members of the right to participate fully and freely in the internal affairs of their own union. A union's right to proscribe its own rules with respect to acquisition or retention of membership therein does not give the union a license for intimidation of members who wish to express criticism of union leadership. A violation of Section 8(b)(1)(A) can even be premised on a union's imposition of internal union discipline that does not affect the employment relationship, that is based on conduct related solely to internal union affairs, and does not rise from the employment relationship. Cf. *Laborers Local 652 (Southern California Contractors' Assn.)*, 319 NLRB 694 (1995).

It is appropriate for cases alleging conduct in violation of Section 8(b)(1)(A) to turn on a *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert denied 455 U.S. 989 (1982), analysis. This is particularly true where it is asserted there was a legitimate (employee's filing unwarranted and unfounded internal union charges which are intended to interfere with the union's ability to carry out its duties as the bargaining representative under the labor agreement and under the Act) basis for the union discipline.

VI. DISCUSSION, ANALYSIS, AND CONCLUSIONS

Based on the above principles for general guidance, I find counsel for the General Counsel has established a prima facie case. It is clear that Johnson and Hutsell are political opponents and at the time of the operative events, Johnson was out of the Local Union's power structure while Hutsell was the president thereof. Johnson was persuaded Hutsell was not managing the Local Union as it should have been while Hutsell was persuaded Johnson was a disruptive troublemaker.

A review of Johnson's actions are not only helpful but necessary.

The first (March 16, 1995) internal union charges filed against Hutsell by Johnson related to Johnson's claim that Hutsell had removed an employee (Joseph Clark) from the plant on authorized paid union business for 2-1/2 hours without the Local Union's membership approval. Johnson contended Hutsell's actions conflicted with the Local Union's bylaws. According to the credited testimony of Johnson, Hutsell agreed to repay the Local Union for the 2-1/2 hours and the charges were dropped. Although this matter may have been minor in nature it appears to have been more than a frivolous action by Johnson. The remedy resulted in the Local Union being reimbursed the expense for the 2-1/2 hours paid to Clark.

The next occasion (December 18, 1995) Johnson filed internal union charges against Hutsell, related to Hutsell's withdrawing a grievance Johnson had filed regarding the Company's denying Johnson's request for educational assistance. Johnson had sought, even though the grievance procedure, to have the Company pay for paralegal training for him even though he was a body and fender repair employee in the paint department. Johnson testified the collective-bargaining agreement did not specify that reimbursement for training had to be for training specifically job related. Johnson testified, without contradiction, that the Company utilizes paralegals at other locations. Johnson credibly testified that Hutsell notified him his grievance had been withdrawn even before a committee had reviewed it. Again the actions of Johnson do not appear too frivolous and his actions relate to his relationship with the Company. Johnson's internal union charges were challenging the actions of the incumbent leadership specifically his political foe, Local Union President Hutsell.

Johnson credibility testified that when he learned Hutsell was not proceeding with the internal union charges he had filed on December 18, 1995, he, on February 2, 1996, filed additional internal union charges against Hutsell refusing to do so. While these charges may have been annoying to Hutsell it appears the charges were, at least in part, an attempt by Johnson to enforce certain the Local Union's bylaws. The fact Johnson and Hutsell were able to do a "gentlemen thing" and resolve the matters so the two could "agreed to go forward" and put all that "behind them" does not in any manner make Johnson's filings any less legitimate. Stated differently that Johnson withdrew these two internal union charges as a result of a gentlemen's agreement to move forward does not convert the filing of the charges into frivolous actions on Johnson's part.

The next internal union charges filed by Johnson against Hutsell on August 19, 1996, related to Hutsell's withdrawing a grievance Johnson filed on July 22, 1996, on behalf of probationary employee Montgomery who had been discharged during his probationary period. In his internal union charges Johnson accused Hutsell of withdrawing the Montgomery grievance before it had been investigated by the Local Union or responded to by the Company. Johnson testified, without contradiction, that when he was president of the Local Union he had filed a grievance on behalf of a probationary employee, which was processed by the Company. Johnson also believed the grievance could be validly processed pursuant to certain non-discrimination language contained in the parties collective-bargaining agreement. According to Johnson's credited testimony, the membership, along with International Union District Director Wilson, agreed the charges could not be dropped but must be and were processed. Again, it appears Johnson's actions were based on a legitimate effort by him to have a grievance advanced pursuant to the collective-bargaining agreement in accordance with past practice that Local Union President Hutsell was attempting, in Johnson's view, to short circuit by simply withdrawing the grievance.

The September 18, 1996, internal union charges filed by Johnson against Hutsell grew out of Johnson's mistaken belief that Hutsell had withdrawn a grievance Johnson filed on July 12, 1996, regarding the Company's subcontracting out work Johnson believed he was entitled to and should have been permitted to have performed. In the grievance Johnson contended he was entitled to perform certain body and fender repairs on a specific GMC truck that was sent to an outside repair shop. When Johnson learned his subcontracting grievance had not actually been withdrawn he immediately withdrew his internal union charges related thereto.

It is against this background that Hutsell filed internal union charges against Johnson on September 23, 1996, asserting in part: "Brother Johnson has continuously filed or assisted others in the filing of unwarranted and unfounded charges against the local union president in an effort to deliberately interfere with him in the discharge of his official duties." On September 25, 1996, Hutsell, in writing, removed Johnson from the position of shop steward in the paint department.

Was the Local Union discriminatorily motivated when it, through Hutsell, filed internal union charges against Johnson and removed him from the shop steward position in the paint department at the Company. I find the Local Union did discriminate against Johnson and therefore violated the Act as alleged. Hutsell testified he removed Johnson from shop steward because of his "continuous filing of frivolous charges." However, as reviewed above, Johnson's internal union charges against Hutsell grew out of or were inextricably entangled with grievances he had filed on behalf of himself or others. The grievances were attempts to have the collective-bargaining agreement, certain company policies, and/or the Local Union's constitution and bylaws enforced. For example, one of the grievances related to what Johnson perceived as outsourcing of unit work by the Company. Another grievance related to the discharge of an employee, albeit a probationary one, but the Local Union under Johnson's leadership had proceeded with a similar situation. Another of the grievance/internal union charges situation involved Johnson's attempts to have the administration of Hutsell justify expenditures for an employee allegedly on union business. In that situation Hutsell reimbursed the Local Union. These forms of dissent are protected and the Local Union may not lawfully file charges against and suspend Johnson from membership simply to keep him from challenging certain decisions of its current leadership.

Although Hutsell may have viewed Johnson as a force for obstruction, a focus for resentment, and a source of division such does not reduce Johnson's actions to that of frivolous. I am persuaded neither Johnson' conduct, actions, or speech impeded Hutsell's ability to meet and/or perform any of the Local Union's contractual and/or legal obligations. In that regard, I note the first three of Johnson's first five internal union charges were never processed by the Local Union even to the initial extent of selecting a trial committee. In sum, the Local Union has failed to demonstrate Hutsell would have filed the charges against Johnson or removed him from his position of shop steward absent Johnson's protected conduct.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[18]

CONCLUSIONS OF LAW

1. The Local Union is a labor organization within the meaning of Section 2(5) of the Act.

2. Allied Signal Technical Services Corporation, a wholly owned subsidiary of Allied Signal, Inc., is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

3. By filing internal union charges against and suspending Torrence Johnson for 6 months from membership in the Local Union, the Local Union has violated Section 8(b)(1)(A) of the Act.

REMEDY

Having found that the Local Union has engaged in unfair labor practices in violation of Section 8(b)(1)(A) of the Act, I shall recommend that it be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. I shall recommend the Local Union, within 14 days from the date of this Order, be ordered to withdraw the internal union charges filed against Torrence Johnson on or about September 23, 1996, and within 14 days from the date of this Order rescind all disciplinary findings against Torrence Johnson with respect to those charges. I shall also recommend the Local Union, within 14 days from the date of this Order, be ordered to remove from its files any records it may have of those charges and the disciplinary action related thereto, and within 3 days thereafter, notify Torrence Johnson in writing that this action has been taken. Finally, I recommend the Local Union be ordered, within 14 days after service by the Region, to post an appropriate "Notice to Members," for a period of 60 consecutive days in order that its members may be apprised of their rights under the Act and the Local Union's obligation to remedy its unfair labor practices.

[18] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[Recommended Order omitted from publication.]